(ii) Destroyed under the monitoring of an APHIS inspector; or

(iii) The seed may be allowed entry into the United States if the labeling is corrected under the monitoring of an APHIS inspector to accurately reflect the character of the lot of seed.

§361.5 Sampling of seeds.

(a) *Sample sizes.* As provided in §361.4(b), samples of seed will be taken from each lot of seed being imported for seeding (planting) purposes to determine whether any seeds of noxious weeds listed in §361.6(a) are present. The samples shall be drawn in the manner described in paragraphs (b) and (c) of this section. Unused portions of samples of rare or expensive seeds will be returned by APHIS upon request of the importer.

(1) A minimum sample of not less than 1 quart shall be drawn from each lot of agricultural seed; a minimum sample of not less than 1 pint shall be drawn from each lot of vegetable seed, except that a sample of ¼ pint will be sufficient for a vegetable seed importation of 5 pounds or less. The minimum sample shall be divided repeatedly until a working sample of proper weight has been obtained. If a mechanical divider cannot be used or is not available, the sample shall be thoroughly mixed, then placed in a pile; the pile shall be divided repeatedly into halves until a working sample of the proper weight remains. The weights of the working samples for noxious weed examination for each lot of seed are shown in column 1 of table 1 of this section. If the lot of seed is a mixture, the following methods shall be used to determine the weight of the working sample:

(i) If the lot of seed is a mixture consisting of one predominant kind of seed or a group of kinds of similar size, the weight of the working sample shall be the weight shown in column 1 of table 1 of this section for the kind or group of kinds that comprises more than 50 percent of the sample.

(ii) If the lot of seed is a mixture consisting of two or more kinds or groups of kinds of different sizes, none of which comprises over 50 percent of the sample, the weight of the working sample shall be the weighted average (to the nearest half gram) of the weight shown in column 1 of table 1 of this section for each of the kinds that comprise the sample, as determined by the following method:

(A) Multiply the percentage of each component of the mixture (rounded off to the nearest whole number) by the sample sizes shown in column 1 of table 1 of this section;

(B) Add all these products;

(C) Total the percentages of all components of the mixtures; and

(D) Divide the sum in paragraph (a)(1)(ii)(B) of this section by the total in paragraph (a)(1)(ii)(C) of this section.

(2) It is not ordinarily practical to sample and test small lots of seed offered for entry. The maximum sizes of lots of each kind of seed not ordinarily sampled are shown in column 2 of table 1 of this section.

(3) The maximum sizes of lots of each kind of seed allowed entry without sampling for sowing for experimental or breeding purposes as provided in §361.4(a)(4) are shown in column 3 of table 1 of this section.

TABLE 1

Name of seed	Working weight for noxious weed examination (grams) (1)	Maximum weight of seed lot not ordinarily sampled (pounds) (2)	Maximum weight of seed lot permitted entry for experimental or breeding purposes without sampling (pounds) (3)
VEGETABLE SEED:			
Artichoke	500	25	50
Asparagus	500	25	50
Asparagusbean	500	25	50
Bean		25	200
Garden	500	100	500

TABLE 1—Continued

Name of seed	Working weight for noxious weed examination (grams) (1)	Maximum weight of seed lot not ordinarily sampled (pounds) (2)	Maximum weight of seed lot permitted entry for experimental or breeding purposes without sampling (pounds) (3)
Lima	500	25	200
Runner	500	25	200
Beet	300	25	50
Broadbean	500	25	200
Broccoli	50	5	10
Brussels sprouts	50	5	10
Burdock, great	150	10	50
Cabbage	50	5	10
Cabbage, Chinese	50	5	10
Cabbage, tronchuda	100	5	10
Cantaloupe (see Melon).			
Cardoon	500	25	50
Carrot	50	5	10
Cauliflower	50	5	10
Celeriac	25	5	10
Celery	25	5	10
Chard, Swiss	300	25	50
Chicory	50	5	10
Chives	50	5	10
Citron	500	25	50
Collards	50	5	10
Corn, sweet	500	25	200
Cornsalad	50	5	10
Cowpea	500	25	200
Cress, garden	50	5	10
Cress, upland	35	5	10
Cress, water	25	5	10
Cucumber	500	25	50
Dandelion	35	5	10
Dill	50	5	10
Eggplant	50	5	10
Endive	50	5	10
Gherkin, West India	160	25	50
Kale	50	5	10
Kale, Chinese	50	5	10
Kale, Siberian	80	5	10
Kohlrabi	50	5	10
Leek	50	5	10
Lettuce	50	5	10
Melon	500	25	50
Mustard, India	50	25	100
Mustard, spinach	50	5	10
Okra	500	25	50
Onion	50	5	10
Onion, Welsh	50	5	10
Pak-choi	50	5	10
Parsley	50	5	10
Parsnip	50	5	10
Pea	500	25	200
Pepper	150	5	10
.			
Pumpkin	500	25	50
Radish	300	25	50
Rhubarb	300	5	10
Rutabaga	50	5	10
Sage	150	25	50
Salsify	300	25	50
Savory, summer	35	5	10
Sorrel	35	5	10
Soybean	500	25	200
Spinach	150	25	50
Spinach, New Zealand	500	25	50
Squash	500	25	50
Tomato	50	5	10
Tomato, husk	35	5	10

TABLE 1—Continued

Name of seed	Working weight for noxious weed examination (grams) (1)	Maximum weight of seed lot not ordinarily sampled (pounds) (2)	Maximum weight of seed lot permitted entry for experimental or breeding purposes without sampling (pounds) (3)
Turnip	50	5	10
Watermelon	500	25	50
AGRICULTURAL SEED:			
Agrotricum	500	100	500
Alfalfa	50	25	100
Alfilaria	50	25	100
Alyceclover	50	25	100
Bahiagrass	50	25	100
Barrelclover	100	25	100
Barley	500	100	500
Bean, adzuki	500	100	500
Bean, field	500	100	500
Bean, mung	500	100	500
Bean (see Velvetbean).			
Beet, field	500	100	500
Beet, sugar	500	100	1,000
Beggarweed	50	25	100
Bentgrass, colonial	2.5	25	100
Bentgrass, creeping	2.5	25	100
Bentgrass, velvet	2.5	25	100
Bermudagrass	10	25	100
Bermudagrass, giant	10	25	100
Bluegrass, annual	10	25	100
Bluegrass, bulbous	40	25	100
Bluegrass, Canada	5	25	100
Bluegrass, glaucantha	10	25	100
Bluegrass, Kentucky	10	25	100
Bluegrass, Nevada	10	25	100
Bluegrass, rough	5	25	100
Bluegrass, Texas	10	25	100
Bluegrass, wood	5	25	100
Bluejoint	5	25	100
Bluestem, big	70	25	100
Bluestem, little	50	25	100
Bluestem, sand	100	25	100
Bluestem, yellow	10	25	100
Bottlebrush-squirreltail	90	25	100
Brome, field	50	25	100
Brome, meadow	130	25	100
Brome, mountain	200	25	100
Brome, smooth	70	25	100
Broomcorn	400	100	500
Buckwheat	500	100	500
Buffalograss:			
(Burs)	200	25	100
(Caryopses)	30	25	100
Buffelgrass:			
(Fascicles)	66	25	100
(Caryopses)	20	25	100
Burclover, California:			
(In bur)	500	100	500
(Out of bur)	70	25	100
Burclover, spotted:			
(In bur)	500	100	500
(Out of bur)	50	25	100
Burnet, little	250	25	100
Buttonclover	70	25	100
Canarygrass	200	25	100
Canarygrass, reed	20	25	100
Carpetgrass	10	25	100
Castorbean	500	100	500
Chess, soft	50	25	100
Chickpea	500	100	500
Clover, alsike	20	25	100
Clover, arrowleaf	40	25	100

TABLE 1—Continued

Name of seed	Working weight for noxious weed examination (grams) (1)	Maximum weight of seed lot not ordinarily sampled (pounds) (2)	Maximum weight of seed lot permitted entry for experimental or breeding purposes without sampling (pounds) (3)
Clover, berseem	50	25	100
Clover, cluster	10	25	100
Clover, crimson	100	25	100
Clover, Kenya	20	25	100
Clover, Ladino	20	25	100
Clover, Lappa	20	25	100
Clover, large hop	10	25	100
Clover, Persian	20	25	100
Clover, red	50	25	100
Clover, rose	70	25	100
Clover, small hop (suckling)	20	25	100
Clover, strawberry	50	25	100
Clover, sub (subterranean)	250	25	100
Clover, white	20	25	100
Corn, field	500	100	1,000
Corn, pop	500	100	1,000
Cotton	500	100	500
Cowpea	500	100	500
Crambe	250	25	100
Crested dogtail	20	25	100
Crotalaria, lance	70	25	100
Crotalaria, showy	250	25	100
Crotalaria, slenderleaf	100	25	100
Crotalaria, striped	100	25	100
Crotalaria, Sunn	500	25	100
Crownvetch	100	25	100
Dallisgrass	40	25	100
Dichondra	50	25	100
Dropseed, sand	2.5	25	100
Emmer	500	100	500
Fescue, Chewings	30	25	100
Fescue, hair	10	25	100
Fescue, hard	20	25	100
Fescue, meadow	50	25	100
Fescue, red	30	25	100
Fescue, sheep	20	25	100
Fescue, tall	50	25	100
Flax	150	25	100
Galletagrass:			
(Other than caryopses)	100	25	100
(Caryopses)	50	25	100
Grama, blue	20	25	100
Grama, side-oats:			
(Other than caryopses)	60	25	100
(Caryopses)	20	25	100
Guar	500	25	100
Guineagrass	20	25	100
Hardinggrass	30	25	100
Hemp	500	100	500
Indiangrass, yellow	70	25	100
Indigo, hairy	70	25	100
Japanese lawngrass	20	25	100
Johnsongrass	100	25	100
Kenaf	500	100	500
Kochia, forage	20	25	100
Kudzu	250	25	100
Lentil	500	25	100
Lespedeza, Korean	50	25	100
Lespedeza, sericea or Chinese	30	25	100
Lespedeza, Siberian	30	25	100
Lespedeza, striate	50	25	100
Lovegrass, sand	10	25	100
Lovegrass, weeping	10	25	100
Lupine, blue	500	100	500
Lupine, white	500	100	500

TABLE 1—Continued

Name of seed	Working weight for noxious weed examination (grams)	Maximum weight of seed lot not ordinarily sampled (pounds)	Maximum weight of seed lot permitted entry for experimental or breeding purposes without sampling (pounds)
Lupine, yellow	500	100	500
Manilagrass	20	25	100
Meadow foxtail	30	25	100
Medick, black	50	25	100
Milkvetch	90	25	100
Millet, browntop	80	25	100
Millet, foxtail	50	25	100
Millet, Japanese	90	25	100
Millet, pearl	150	25	100
Millet, proso	150	25	100
Molassesgrass	5	25	100
Mustard, black	20	25	100
Mustard, India	50	25	100
Mustard, white	150	25	100
Napiergrass	50	25	100
Needlegrass, green	70	25	100
Oat	500	100	500
Oatgrass, tall	60	25	100
Orchardgrass	30	25	100
Panicgrass, blue	20	25	100
Panicgrass, green	20	25	100
Pea, field	500	100	500
Peanut	500	100	500
Poa trivialis (see bluegrass, rough)			
Rape, annual	70	25	100
Rape, bird	70	25	100
Rape, turnip	50	25	100
Rape, winter	100	25	100
Redtop	2.5	25	100
Rescuegrass	200	25	100
Rhodesgrass	10	25	100
Rice	500	100	500
Ricegrass, Indian	70	25	100
Roughpea	500	100	500
Rye	500	100	500
Rye, mountain	280	25	100
Ryegrass, annual	50	25	100
Ryegrass, intermediate	80	25	100
Ryegrass, perennial	50	25	100
Ryegrass, Wimmera	50	25	100
Safflower	500	100	500
Sagewort, Louisiana	5	25	100
Sainfoin	500	100	500
Saltbush, fourwing	150	25	100
Seasame	70	25	100
Sesbania	250	25	100
Smilo	20	25	100
Sorghum	500	100	1,000
Sorghum almum	150	25	100
Sorghum-sudangrass hybrid	500	100	1,000
Sorgrass	150	25	100
Sourclover	50	25	100
Soybean	500	100	500
Spelt	500	100	500
Sudangrass	250	25	100
Sunflower	500	100	500
Sweetclover, white	50	25	100
Sweetclover, yellow	50	25	100
Sweet vernalgrass	20	25	100
Sweetvetch, northern	190	25	100
Switchgrass	40	25	100
Timothy	10	25	100
Timothy, turf	10	25	100
Tobacco	5	1	1
Trefoil, big	20	25	100
Trefoil, birdsfoot	30	25	100
Triticale	500	100	500

TABLE 1—Continued

Name of seed	Working weight for noxious weed examination (grams)	Maximum weight of seed lot not ordinarily sampled (pounds)	Maximum weight of seed lot permitted entry for experimental or breeding purposes without sampling (pounds)
Trefoil, birdsfoot	30	25	100
Triticale	500	100	500
Vaseygrass	30	25	100
Veldtgrass	40	25	100
Velvetbean	500	100	500
Velvetgrass	10	25	100
Vetch, common	500	100	500
Vetch, hairy	500	100	500
Vetch, Hungarian	500	100	500
Vetch, Monantha	500	100	500
Vetch, narrowleaf	500	100	500
Vetch, purple	500	100	500
Vetch, woolypod	500	100	500
Wheat, common	500	100	500
Wheat, club	500	100	500
Wheat, durum	500	100	500
Wheat, Polish	500	100	500
Wheat, poulard	500	100	500
Wheat×Agrotricum	500	100	500
Wheatgrass, beardless	80	25	100
Wheatgrass, fairway crested	40	25	100
Wheatgrass, standard crested	50	25	100
Wheatgrass, intermediate	150	25	100
Wheatgrass, pubescent	150	25	100
Wheatgrass, Siberian	50	25	100
Wheatgrass, slender	70	25	100
Wheatgrass, streambank	50	25	100
Wheatgrass, tall	150	25	100
Wheatgrass, western	100	25	100
Wildrye, basin	80	25	100
Wild-rye, Canada	110	25	100
Wild-rye, Russian	60	25	100
Zoysia Japonica (see Japanese lawngrass)			
Zoysia matrella (see Manilagrass)			

(b) *Method of sampling.* (1) When an importation consists of more than one lot, each lot shall be sampled separately.

(2) For lots of six or fewer bags, each bag shall be sampled. A total of at least five trierfuls shall be taken from the lot.

(3) For lots of more than six bags, five bags plus at least 10 percent of the number of bags in the lot shall be sampled. (Round off numbers with decimals to the nearest whole number, raising 0.5 to the next whole number.) Regardless of the lot size, it is not necessary to sample more than 30 bags.

(4) When the lot of seed to be sampled is comprised of seed in small containers that cannot practically be sampled as described in paragraph (b)(2) or (b)(3) of this section, entire unopened containers may be taken in sufficient number to supply a sample that meets the minimum size requirements of paragraph (a)(1) of this section.

(c) *Drawing samples.* Samples will not be drawn unless each container is labeled to show the lot designation and the name of the kind and variety of each agricultural seed, or kind and variety of each vegetable seed, appearing on the invoice and other entry papers, and a declaration has been filed by the importer as required under § 361.2(a). In order to secure a representative sample, an APHIS inspector will draw equal portions from evenly distributed parts of the quantity of seed to be sampled; the APHIS inspector, therefore, must be given access to all parts of that quantity.

(1) For free-flowing seed in bags or in bulk, a probe or trier shall be used. For small free-flowing seed in bags, a probe or trier long enough to sample all portions of the bag shall be used. When

drawing more than one trierful of seed from a bag, a different path through the seed shall be used when drawing each sample.

(2) For non-free-flowing seed in bags or bulk that may be difficult to sample with a probe or trier, samples shall be obtained by thrusting one's hand into the seed and withdrawing representative portions. The hand shall be inserted in an open position with the fingers held closely together while the hand is being inserted and the portion withdrawn. When more than one handful is taken from a bag, the handfuls shall be taken from well-separated points.

(3) When more than one sample is drawn from a single lot, the samples may be combined into a composite sample unless it appears that the quantity of seed represented as a lot is not of uniform quality, in which case the separate samples shall be forwarded together, but without being combined into a composite sample.

(d) In most cases, samples will be drawn and examined by an APHIS inspector at the port of first arrival. The APHIS inspector may release a shipment if no contaminants are found and the labeling is sufficient. If contaminants are found or the labeling of the seed is insufficient, the APHIS inspector may forward the sample to the USDA Seed Examination Facility (SEF), Beltsville, MD, for analysis, testing, or examination. APHIS will notify the owner or consignee of the seed that samples have been drawn and forwarded to the SEF and that the shipment must be held intact pending a decision by APHIS as to whether the seed is within the noxious weed seed tolerances of §361.6 and is accurately labeled. If the decision pending is with regard to the noxious weed seed content of the seed and the seed has been determined to be accurately labeled, the seed may be released for delivery to the owner or consignee under the following conditions:

(1) The owner or consignee executes with Customs either a Customs single-entry bond or a Customs term bond, as appropriate, in such amount as is prescribed by applicable Customs regulations;

(2) The bond must contain a condition for the redelivery of the seed or any part thereof upon demand of the Port Director of Customs at any time;

(3) Until the seed is approved for entry upon completion of APHIS' examination, the seed must be kept intact and not tampered with in any way, or removed from the containers except under the monitoring of an APHIS inspector; and

(4) The owner or consignee must keep APHIS informed as to the location of the seed until it is finally entered into the commerce of the United States.

§361.6 Noxious weed seeds.

(a) Seeds of the plants listed in paragraphs (a)(1) and (a)(2) of this section shall be considered noxious weed seeds.

(1) Seeds with no tolerances applicable to their introduction:

Aeginetia spp.
Ageratina adenophora (Sprengel) King & Robinson
Alectra spp.
Alternanthera sessilis (L.) R. Brown ex de Candolle
Asphodelus fistulosus L.
Avena sterilis L. (including *Avena ludoviciana* Durieu)
Azolla pinnata R. Brown
Carthamus oxyacantha M. Bieberstein
Caulerpa taxifolia (Mediterranean clone)
Chrysopogon aciculatus (Retzius) Trinius
Commelina benghalensis L.
Crupina vulgaris Cassini
Cuscuta spp.
Digitaria abyssinica (=*D. scalarum*)
Digitaria velutina (Forsskal) Palisot de Beauvois
Drymaria arenarioides Humboldt & Bonpland ex Roemer & Schultes
Eichhornia azurea (Swartz) Kunth
Emex australis Steinheil
Emex spinosa (L.) Campdera
Galega officinalis L.
Heracleum mantegazzianum Sommier & Levier
Homeria spp.
Hydrilla verticillata (Linnaeus f.) Royle
Hygrophila polysperma T. Anderson
Imperata brasiliensis Trinius
Imperata cylindrica (L.) Raeuschel
Ipomoea aquatica Forsskal
Ischaemum rugosum Salisbury
Lagarosiphon major (Ridley) Moss
Leptochloa chinensis (L.) Nees
Limnophila sessiliflora (Vahl) Blume
Lycium ferocissimum Miers
Melaleuca quinquenervia (Cav.) Blake
Melastoma malabathricum L.
Mikania cordata (Burman f.) B. L. Robinson
Mikania micrantha Humboldt, Bonpland, & Kunth